

Board of Chiropractic Examiners

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**BOARD OF CHIROPRACTIC EXAMINERS
PUBLIC SESSION MINUTES**

January 10, 2008
400 R Street, Room 101
Sacramento, CA 95814

Board Members Present

Frederick Lerner, DC., Chair
Hugh Lubkin, D.C. Vice Chair
Francesco Columbu, D.C. Secretary
Jim Conran, Public Member
Judge Duvaras, Public Member
Richard Tyler, D. C.

Staff Present

Brian Stiger, Executive Officer
LaVonne Powell, Senior Staff Counsel
Thomas Rinaldi, Deputy Attorney General
Marlene Valencia, Staff Services Analyst

Call to Order

Dr. Tyler called the meeting to order at 10:47 a.m.

Roll Call

Dr. Columbu called the roll. All members were present.

Board Member Opening Remarks

Dr. Tyler commented on the events of the past year. He recognized the Board Members and Board Staff for their good work over the past year and offered advice to the Board in moving forward. Dr. Tyler commended the International Chiropractic Association of California (ICAC), the California Chiropractic Association (CCA), and the International Chiropractic Association (ICA) for their support over the past year.

Judge Duvaras recognized the CCA for its positive comments about the Board in an editorial printed on July 23, 2007.

Dr. Lubkin expressed his dedication to consumer protection and complemented Board Members and Board Staff for their outstanding efforts.

Election of Officers for 2008

Dr. Tyler asked for all nominations for Board Chair.

JUDGE DUVARAS MOVED TO NOMINATE DR. LERNER FOR BOARD CHAIR. DR. COLUMBU SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Dr. Tyler asked for all nominations for Vice Chair.

DR. COLUMBU MOVED TO NOMINATE DR. LUBKIN FOR VICE CHAIR. JUDGE DUVARAS SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Dr. Tyler asked for all nominations for Secretary.

DR. LUBKIN MOVED TO NOMINATE DR. COLUMBU FOR SECRETARY. DR. LERNER SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

New Chair's Opening Remarks

Dr. Lerner recognized Dr. Tyler for his leadership over the past year and presented him with a plaque.

Judge Duvaras complemented Dr. Tyler for his dedication and leadership during his tenure as Board Chair.

Dr. Lerner, as the newly elected chair, reiterated the board's mission is to protect the public. He made restoration of the budget and improving enforcement as the board's top priorities.

Dr. Lerner expressed interest in revamping continuing education, establishing a public relations committee, and adopting a number of regulations.

Approval of Minutes

November 27, 2007, Open Session

MR. CONRAN MOVED TO ADOPT THE MINUTES AS AMENDED. DR. LUBKIN SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Board Member Training on the Bagley-Keene Open Meetings Act and other relevant laws

Ms. Powell advised the Board to always allow members of the public the opportunity to express themselves freely and openly. Ms. Powell complemented the Board for showing respect to the public during past meetings.

Ms. Powell informed the Board that mail votes can be made through e-mail. Dr. Lerner is interested in this concept and volunteered to develop an electronic document that can be used by Board Members.

Mr. Conran suggested that public comments be placed at the beginning of the agenda rather than at the end out of respect for the public.

Ms. Powell reminded the Board Members not to make decisions on items not on an agenda or outside of Board meetings.

Executive Officer's Report

Mr. Stiger provided a status of the budget. He projected a \$170,000 deficit at the end of the fiscal year. Mr. Stiger is confident he will be able to find additional savings to address the projected deficit.

Mr. Stiger informed the Board that the lay-off was effective on January 7, 2008. Staff members are wearing multiple hats. Mr. Stiger expressed concern that if savings are not achieved, further cuts may be necessary. Mr. Stiger reiterated that the budget is a major concern.

Mr. Stiger informed the board that the Legislature approved a deficiency request for \$383,000 which is earmarked for legal costs to cover recent law suits.

Judge Duvaras expressed concern about having two attorneys at board meetings given the board's budget. Mr. Stiger stated that having the Deputy Attorney Liaison at board meetings was essential to the board's success.

Mr. Stiger provided an update on licensing and enforcement statistics. Mr. Conran stated that licensees that don't pay renewal fees on time should be held accountable.

Committee Reports

Manipulation Under Anesthesia (MUA)

Dr. Lerner informed the board that the MUA committee voted to recommend to the full Board to make the legal opinion on MUA a public document.

Ms. Powell reiterated that the Board requested Ms. Powell to write the legal opinion after meeting with the OAL (Office of Administrative Law).

During the meeting, OAL indicated that a legal opinion from DCA would be sufficient to overcome the absence of a legal opinion in the previous MUA proposed regulation package that was previously disapproved by OAL.

DR. LUBKIN MOVED TO MAKE THE LEGAL OPINION PUBLIC. MR. CONRAN SECONDED THE MOTION. VOTE: 6-0. MOTION CARRIED.

Enforcement Committee

Dr. Lubkin informed the Board that the committee adopted proposed regulation language for citation and fine authority and a letter of admonishment.

Mr. Conran expressed concern that Board Members have not had the opportunity to review the

language and the public has not the opportunity to express comments.

MR. CONRAN MOVED TO PLACE THE CITE AND FINE AUTHORITY AND LETTER OF ADMONISHMENT ON THE MARCH 27, 2008 MEETING. DR. LUBKIN SECONDED THE MOTION. VOTE 6-0. MOTION CARRIED.

Legislative Committee

Dr. Lerner discussed Assembly Bill 163 and asked if Board Members wanted to take a position on this bill. Mr. Conran stated it is inadvisable to take a position on Assembly Bill 163 at this time given our current budget situation.

Mr. Stiger indicated that this bill may not be taken up in the Legislature until next summer.

MR. CONRAN MOVED TO TAKE A WATCH POSITION ON ASSEMBLY BILL 163. DR. LUBKIN SECONDED THE MOTION. VOTE 6-0. MOTION CARRIED.

Mr. Conran recommended that the board adopt a stronger vetting process when corresponding with the capitol and that all correspondence be reviewed by the Executive Officer and Staff Counsel.

Announcements

The next Board meeting will be conducted on March 27, 2008 in Sacramento.

Public Comment

David Prescott asked when the next meeting would be held to address his petition to change the regulations. Mr. Stiger stated that the meeting may not take place until early March 2008.

Dr. Lerner assured Mr. Prescott that this would be placed in a committee at the earliest possible date.

Bill Howe, CCA, offered assistance to the Board to resolve the budget issue.
Mr. Howe thanked Mr. Stiger for his interview with CCA and the information that he provided.

New Business

Mr. Stiger suggested that Strategic Planning be placed on a future agenda.

Dr. Charles Davis, D.C., ICAC requested that the expert witness guideline be placed on the next agenda.

Dr. Lerner adjourned the meeting at approximately 1:15 p.m.